

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a Washington
corporation,

Plaintiff,

v.

MOTOROLA, INC., MOTOROLA
MOBILITY, INC., and GENERAL
INSTRUMENT CORPORATION,

Defendants.

CASE NO. C10-1823-JLR

THIRD DECLARATION OF KEVIN J.
POST IN SUPPORT OF MOTOROLA'S
REPLY IN SUPPORT OF ITS MOTION
FOR PARTIAL SUMMARY
JUDGMENT

**NOTED ON MOTION CALENDAR:
Friday, April 20, 2012**

**HEARING SCHEDULED:
May 7, 2012**

THIRD DECLARATION OF KEVIN J. POST IN SUPPORT OF
MOTOROLA'S REPLY IN SUPPORT OF ITS MOTION FOR
PARTIAL SUMMARY JUDGMENT
CASE NO. C10-1823-JLR

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1 I, KEVIN J. POST, declare as follows:

2 1. I am an associate at the law firm of Ropes & Gray LLP, counsel to Motorola, Inc.
3 (now Motorola Solutions, Inc.), Motorola Mobility, Inc. and General Instrument Corporation
4 (collectively "Motorola"), Defendants in this action, and am a member in good standing of the
5 bars of the State of New York and the District of Columbia.

6 2. I submit this declaration in support of Motorola's Reply in Support of its Motion
7 for Partial Summary Judgment, submitted concurrently herewith.

8 3. Attached as Exhibit 55 is a true and correct copy of an email and attached draft
9 document sent from Microsoft employee Amy Marasco to a number of recipients on August 19,
10 2008. These documents were marked as Exhibits 7-8 to the Deposition of Ms. Marasco, and are
11 branded with non-consecutive production numbers MS-MOTO_1823_00000908317-26 (filed
12 under seal).

13 4. Attached as Exhibit 56 is a true and correct copy of a June 14, 2011 letter from
14 Michele K. Herman of Davis Wright Tremaine LLP to the Federal Trade Commission. This
15 document is branded with production numbers MOTM_WASH1823_0392160-72.

16 5. Attached as Exhibit 57 is a true and correct copy of an August 5, 2011 letter from
17 IBM to the Federal Trade Commission, signed by Gerald Lane, Director of Standards at IBM, and
18 Marc Sandy Block, Staff Counsel at IBM. This document is branded with production numbers
19 MS-MOTO_1823_00002280003-27. While this document has been labeled as containing
20 Confidential Business Information, it is publicly accessible at the following hyperlink:
21 <http://www.ftc.gov/os/comments/patentstandardsworkshop/00037-80151.pdf>. As such, this
22 document has not been filed under seal.

23 6. Attached as Exhibit 58 is a true and correct copy of an August 5, 2011 letter from
24 the Innovation Alliance to the Federal Trade Commission, signed by Brian Pomper, Executive
25 Director of The Innovation Alliance. This document is branded with production numbers
26 MOTM_WASH1823_392282-88.

7. Attached as Exhibit 59 is a true and correct copy of selected pages from the transcript of the January 13, 2012 hearing held in *In The Matter of Certain Gaming and Entertainment Consoles, Related Software, and Components Thereof*, Inv. No. 337-TA-752 (U.S.I.T.C.) by ALJ Shaw, which reproduces the sworn testimony of Richard J. Holleman and bears non-consecutive production numbers MOTM_WASH1823_0400875-1025. While the full transcript document in its entirety is labeled as containing Confidential Business Information, the selected pages in Exhibit 59 contain only public information. As such, Exhibit 59 is not being filed under seal.

8. Attached as Exhibit 60 is a true and correct copy of selected pages from the rough draft uncertified transcript of the deposition of Richard A. Sonnentag, which was designated as Confidential and taken under oath in Chicago, IL on April 18, 2012 (filed under seal).

9. Attached as Exhibit 61 is a true and correct copy of a document titled "Declaration of Brian Blasius," which was executed in Libertyville, IL, on April 9, 2008, by Brian Blasius, and filed as part of Document Number 33-3 in Case No. 3:08-CV-0284-G, which was pending between Research In Motion Ltd., et al. and Motorola, Inc. in the United States District Court for the Northern District of Texas, Dallas Division.

10. Attached as Exhibit 62 is a true and correct copy of a document titled "Complaint," which was filed as Document 1 in Case Number 3:08-cv-00284-K by Research In Motion Ltd., et al., against Motorola, Inc. in the United States District Court for the Northern District of Texas, Dallas Division.

11. Attached as Exhibit 63 is a true and correct copy of the unpublished opinion of the Court of Chancery of Delaware in *Pharmathene, Inc. v. Siga Technologies, Inc.*, Civil Action No. 2627-VCP, 2011 WL 4390726 (Sept. 22, 2011).

1 I declare under penalty of perjury of the laws of the United States and the State of
2 Washington that the foregoing is true and correct.

3
4 DATED this 20th day of April, 2012.

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6 
7

8
9 _____
Kevin J. Post

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 20th day of April, 2012.

/s/ Marcia A. Ripley

Marcia A. Ripley